

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 1692 – SB 1728

March 8, 2016

SUMMARY OF ORIGINAL BILL: Authorizes local government entities which have formed a corporation to formally delegate the authority to negotiate, accept, or waive payments from any of the corporation's lessees' payments in lieu of taxes (PILOT) to the corporation. Authorizes local government entities making the delegation to allow a corporation to negotiate lessee PILOT to require the corporation to submit any PILOT or similar agreement for approval to the local government.

Limits contracts, leases, understandings and agreements of any kind, including a renewal or an extension of any agreement, entered into by a local government entity or corporation to which the authority has been delegated, to a period of not more than 20 years plus a reasonable construction or installation period that shall not exceed three years from the date of such agreement, unless the Commissioner of Economic and Community Development (ECD) and the Comptroller of the Treasury (COT) make a written determination that such agreement is in the best interest of the state.

Requires the corporation to attach an analysis of the costs and benefits of the agreement to the agreement document as prescribed by the Commissioner of ECD or the Commissioner's designee.

Requires PILOT for projects located within an area designated as the center-city area by a local government entity where there is a central business improvement district, excluding headquarter facilities, to not be set below the lesser of either the ad valorem taxes otherwise due and payable by a tax-paying entity on the current fair market value of the leased properties, or the ad valorem taxes that were or would have been due and payable on the leased properties for the period immediately preceding the day of their acquisition by their corporation.

FISCAL IMPACT OF ORIGINAL BILL:

Forgone Local Revenue – \$1,500/Per Contract/Permissive

SUMMARY OF AMENDMENT (013313): Deletes and rewrites the bill such that the only substantive changes are to revise the content of the annual report prepared by the corporation lessee and submitted to the Board of Equalization to reflect the changes of the legislation and to make multiple typographical changes.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

Assumptions for the bill as amended:

- Pursuant to Tenn. Code Ann. § 7-53-305(a)(1), an industrial corporation and all properties owned by it; the corporation's income and revenues from its properties; bonds issued by the corporation; and bond income shall be tax exempt.
- Pursuant to Tenn. Code Ann. § 7-53-305(b)(1), a local government entity currently has the power to delegate to an industrial development corporation the authority to negotiate and accept payments in lieu of ad valorem taxes from the corporation's lessees; provided, that any such authorization will be granted only upon a finding that such payments are deemed to be in furtherance of the corporation's public purposes.
- Any impact to local governments resulting from the extension of the authority to collect negotiate, accept, or waive payments from any of a corporation's lessees' PILOT to the corporation, is estimated to be not significant.
- Pursuant to Tenn. Code Ann. § 7-53-305(b)(1), no current contract, lease, understanding, or other agreement of any kind, including any renewal or extension of the agreement, entered into by a municipality or corporation to which such authority has been delegated may permit PILOT be waived for a period to exceed 20 years unless the Commissioner of ECD and the COT make a written determination that such an agreement is in the best interest of the state.
- Allowing contracts, leases, understandings, or other agreements to extend to a total of 23 years, (20 years plus a reasonable construction or installation period) may lead to a permissive decrease in local revenue for each agreement where the total contract period is 23 years, because during the negotiated extension period of up to three years for construction or installation, PILOT payments may be less than the taxes that would have otherwise been collected under Tenn. Code. Ann. § 7-53-305(b)(1). It is reasonably estimated that contracts extending up to 23 years will result in a permissive forgoing of local revenue exceeding \$1,500 per contract.
- The Commissioner of Economic and Community Development and the Comptroller of the Treasury will make determinations of agreements within existing resources. No impact to state government.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista M. Lee, Executive Director

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